IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **R.S.A. No. 2448 of 2004**

Date of decision: 8.8.2007

Bhoop Singh **...Appellant**

Versus

Chanan and others **...Respondents**

2. **R.S.A. No. 2449 of 2004**

Bhoop Singh **...Appellant**

Versus

Chanan and others **...Respondents**

3. **R.S.A. No. 2450 of 2004**

Bhoop Singh **...Appellant**

Versus

Chanan and others **...Respondents**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. R.N.Singal, Advocate for the appellant.

****

RAJESH BINDAL, J.

This is a bunch of three appeals raising similar issues.

The only issue raised by learned counsel for the appellant is that the judgment of this Court between the parties holding the present appellant not be son of Dilla Ram, in earlier lis between the same parties, could not be relied upon by the courts below to non-suit the appellant. He submitted that the issue regarding his parentage could not be decided in the earlier proceedings, hence, is not binding precedent between the parties. The contention raised by learned counsel for the appellant is not at all convincing. In the earlier lis between the parties i.e. Regular Second

Appeal No.1014 of 2003, this Court while dismissing the appeal filed by the appellant and confirming the findings recorded by both the courts below on that count held as under:-

> "The learned first appellate court has categorically held that it was for the plaintiff to prove that he was the real brother of the defendants and, therefore, was co-sharer in the property in dispute. The plaintiff had merely related himself with the defendants with the plea that Gujjar and Dilla Ram were two brothers. Gujjar was married with Mamo Devi whereas Dilla Ram was married with Bhuro. All the defendants were born out of the loins of Dilla Ram and Bhuro Devi. However, after the death of Bhuro Devi as well as Gujjar, Dilla Ram contracted a Karewa marriage with Mamo Devi and the plaintiff was born out of the loins of Dilla Ram and Mamo Devi. However, the said claim of the plaintiff, although pleaded by him, is not borne out of the record. A firm finding of fact has been recorded by the courts below."

The argument of learned counsel for the appellant that findings recorded between the parties by this Court on the issue of parentage of the appellant could not be relied upon by the courts below to non suit the appellant is totally misconceived. The contention of the learned counsel for the appellant that in the earlier suit the issue was not regarding the parentage of the appellant is not found to be correct on perusal of the record of Regular Second Appeal No.1014 of 2003. After detailed discussions, both the courts below in the earlier appeal had categorically recorded a finding that present appellant (plaintiff in the earlier suit) had not been able to prove that he is son of Dilla Ram, which finding was affirmed by this Court. In case an issue had already been settled between the parties upto this Court, there is no reason that judgment thereof cannot be referred and relied upon in any other proceedings between the same parties.

Accordingly, I do not find any merit in the present appeals and the same are dismissed.

August 08, 2007 **(Rajesh Bindal)**
Pka **Judge**